

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

July 26, 2024

Christopher M. Wolpert
Clerk of Court

THE CHICKASAW NATION,

Petitioner,

v.

CVS CAREMARK, LLC; CAREMARK
PHC, LLC; CAREMARK PCS HEALTH,
LLC; CAREMARK, LLC; CAREMARK
RX, LLC; AETNA, INC.; AETNA
HEALTH, INC.; OPTUMRX, INC.;
OPTUM, INC.; UNITED HEALTHCARE
SERVICES, INC.; UNITEDHEALTH
GROUP, INC.,

Respondents.

No. 24-601
(D.C. No. 6:20-CV-00488-PRW)
(E.D. Okla.)

ORDER

Before **BACHARACH**, **ROSSMAN**, and **FEDERICO**, Circuit Judges.

This matter is before us on The Chickasaw Nation’s (“The Nation”) *Petition for Permission to Appeal Under 28 U.S.C. § 1292(b)*. We also have two responses in opposition: one from the Caremark respondents (CVS Caremark, LLC, Caremark PHC, LLC, Caremark PCS Health, LLC, Caremark, LLC, Caremark RX, LLC, AETNA, Inc., and AETNA Health, Inc.) and one from the Optum respondents (OptumRX, Inc., Optum, Inc., United HealthCare Services, Inc., and UnitedHealth Group, Inc.). In addition, we

have The Nation's unopposed motion for leave to file a reply and Optum's unopposed motion for leave to file two of the exhibits to its response in opposition under seal.

As a preliminary matter, we grant The Nation's unopposed motion for leave to file a reply and Optum's unopposed motion for leave to file under seal. The reply shall be filed as of the date it was received. The exhibits shall remain sealed.

Under 28 U.S.C. § 1292(b), we have discretion to permit an interlocutory appeal from an order entered in a civil action if the order involves a controlling question of law as to which there is a substantial ground for difference of opinion and an immediate appeal is likely to materially advance the ultimate termination of the litigation. Here, the district court certified its September 30, 2022 order [ECF No. 119] under § 1292(b), and The Nation asks us to exercise our discretion to permit an immediate appeal of the September 30, 2022 order.

Upon consideration of the parties' filings and the relevant law, we are not persuaded that there is a substantial ground for difference of opinion as to any question of law implicated by the district court's September 30, 2022 order. Further, we are not persuaded that an immediate appeal from the district court's September 30, 2022 order is likely to materially advance the ultimate termination of this litigation. Accordingly, the Petition is DENIED.

Entered for the Court

A handwritten signature in black ink, appearing to read 'Christopher M. Wolpert', with a long horizontal stroke extending to the right.

CHRISTOPHER M. WOLPERT, Clerk